

Doom and LHA Information

Although not relied upon, the Action cites the Doom Article. Applicants have reconstructed the "doom1666.exe" file and executed it. The results are shown in the captured Doom Session submitted herewith. Applicants also include a user manual related to the "LHA" program, which is mentioned during execution of doom1666.exe.

Applicants have cited the information as well as the Doom Article provided by the Examiner in an IDS filed herewith. Although the Application is after final, Applicants respectfully request the Examiner consider references because the Doom Article was provided for the first time in the final Office Action.

Finality of Action

Applicants acknowledge finality of the most recent Action; however, Applicants do not believe the rejection can be sustained based on Fawcett under §102(e). Accordingly, Applicants request the Application be passed to Allowance.

The Action has hinted that the claims might be rejected over other art; however, Applicants do not have concrete reasons against which to argue. If rejection is based on some other basis, Applicants respectfully request finality be withdrawn and written rationale be provided.

Patentability of Claims 28-35 and 37-56 over Fawcett under § 102(e)

The Action rejects claims 28-35 and 37-56 under 35 U.S.C. § 102(e) as being anticipated by Fawcett. Applicants respectfully submit the claims in their present form are allowable over the cited art. For a 102(e) rejection to be proper, the cited art must show each and every element as set forth in a claim. (See MPEP § 2131.01.) However, the cited art does not so show. For example, with respect to claim 53, Fawcett does not teach or suggest "a distribution file comprising . . . installer starting instructions arranged within the distribution file to be automatically executed upon completion of extraction of the software."

Applicants hereby reiterate the remarks made in the response filed April 16, 2003, and present further remarks below.

Claim 53

Claim 53 stands rejected under § 102(e) over Fawcett. Specifically, in addition to the earlier rejections, the Action makes reference to the “installation application” described in column 9, line 62 of Fawcett. Fawcett describes as follows at column 9, lines 59 et seq. (emphasis added):

When the user is ready to install the computer software (e.g., the next morning if the computer software was transferred and installed in the middle of the night), the user simply launches the *installation application* supplied by the update service computer.

Applicant fails to understand how describing a user’s launching an installation application would lead one to the recited “installer starting instructions arranged within the distribution file to be automatically executed upon completion of extraction of the software.” It would seem that a user’s launching an application would teach away from the recited starting instructions which are “arranged within the distribution file to be automatically executed upon completion of extraction of the software.”

Fawcett also makes mention of an immediate installation choice at column 8, lines 49 et seq.:

If immediate installation is chosen, the service update application on the update service computer downloads the available software to the user computer and installs the software in the proper place (e.g., in the proper directly or subdirectory) on the user computer (94).

Thus, Fawcett does describe “immediate installation is chosen”; however, Fawcett describes that the *update service computer* downloads the available software to the user computer and installs the software, not “installer starting instructions arranged within the distribution file to be automatically executed upon completion of extraction of the software.”

There are further differences, but, for the sake of brevity, Applicant presents clear differences regarding the installer starting instructions. Finally, to address the possibility of a § 103 rejection (over Fawcett, Applicants note that the present application and the subject matter of Fawcett were) under an obligation of assignment to the same entity at the time the invention was made.

The Action further provides an article regarding installation of the “Doom” software (“Doom Article”). Although not officially relied upon in the rejection, the Doom Article helps demonstrate a further difference between the recited arrangement and the cited art.

One of the advantages of the recited arrangement is that a user need not somehow determine the location of the installer, the name of the installer, and how to execute it. Instead, the “installer starting instructions” are “automatically executed upon completion of extraction” and are “operable

to start the installer to install the software.” In the cited Doom article, a user is asking how to run the game Doom, but has apparently not been successful in installing the software. A user replies with “install usually means install.” To further clarify, the replying user states,

[By the way], to run install simply go to the directory it is in and type, you got it, INSTALL.

The replying user’s comment thus illustrates the difficulties encountered with the approach used for the Doom software. First, the user is expected to know that the installer is called “install.” Second, the user is expected to know where the install directory is. Finally, the user is then expected to know how to run the installer (e.g., by typing “install”). The recited arrangement can overcome these difficulties.

For at least these reasons, claim 53 is allowable over Fawcett and the Doom Article.

During a telephonic interview, the Examiner mentioned the doom1666.exe file. Regarding the doom1666.exe file, Applicants submit herewith a captured session showing execution of the file and a user manual for “LHA.”

Digital Signatures

Various of the claims recite a digital signature (e.g., claims 40, 41, 48, 49). As understood by Applicants, these claims are additionally allowable because they include language related to a digital signature.

For at least these additional reasons, claims 40, 41, 48, and 49 are allowable at this time.

The Remaining Claims

As noted in the earlier reply, the remaining claims recite various features rendering them allowable over the cited art.

Request for Interview

If any issues remain, the Examiner is formally requested to contact the undersigned attorney prior to issuance of the next Office Action in order to arrange a telephonic interview. It is believed that a brief discussion of the merits of the present application may expedite prosecution. Applicant submits the foregoing formal Amendment so that the Examiner may fully evaluate Applicant’s position, thereby enabling the interview to be more focused.


This request is being submitted under MPEP § 713.01, which indicates that an interview may be arranged in advance by a written request.

Conclusion

The claims in their present form should now be allowable. Such action is respectfully requested.

Respectfully submitted,

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